

AMENDED IN ASSEMBLY MAY 1, 1997

AMENDED IN ASSEMBLY APRIL 2, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1204

Introduced by Assembly Member Papan

February 28, 1997

An act to amend and renumber Sections 8399 and 8399.1 of, and to add Article 9.7 (commencing with Section 8420) to Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to fish, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1204, as amended, Papan. Fish.

(1) Under existing law, squid may be taken for commercial purposes north of Point Conception the year around, subject to regulations adopted by the Fish and Game Commission specifying the days of the week and the times of the day when squid may be taken. Existing law also prohibits certain activities relating to taking of squid for commercial purposes in Fish and Game District 10.

This bill would recast and renumber those provisions *and would provide that they would remain operative indefinitely*.

The bill, until April 1, 2001, would also make it unlawful for a person on a vessel to take or possess squid for commercial purposes except using purse seine, lampara, or scoop nets on a vessel that displays a commercial squid vessel *owner's* permit that has been issued to that vessel's owner, as defined,

or the owner's agent, ~~as defined, by the Department of Fish and Game pursuant to the bill. The bill would specify the fee for the permit and provide for the term of the permit and would require the department to establish the fee for the permit in an amount not to exceed the reasonable costs incurred by the department in administering the bill, including necessary research to assess the status of the squid resource, or \$750, whichever is less. The bill would provide for transfer of the permit to a replacement vessel or upon the sale of the vessel for which the permit was issued, under specified circumstances under the same ownership and would allow conveyance of the permit to another person by inheritance.~~

The bill would also authorize the department, by regulation, to control the use of squid light boats, including providing for light boat permits, permit fees, *specify the forms* for agreements between light boats and commercial squid vessels, and other conditions.

~~(2) Existing law requires a person who receives, transports, processes, or sells fish for commercial purposes to have a commercial fish business license of one of certain classes. Existing law also requires a person who receives fish from a commercial fisherman and is required to have a commercial fish business license and a person who is a commercial fisherman who sells his or her own fish to make a receipt for fish received or sold, respectively, to pay a landing tax.~~

~~Until~~

~~(2) Until April 1, 2001, this bill would require the department, by regulation, to issue commercial squid buyer's permits to an applicant who submits an application, pays the permit fee and meets specified conditions. The bill would require the department to establish the fee for the permit in an amount not to exceed the reasonable costs incurred by the department in administering the bill, including necessary research, or \$750, whichever is less. The bill would require a person buying squid to have a valid commercial squid buyer's permit issued by the department. The bill would require a person holding a commercial squid buyer's permit to make a true and accurate record of all squid landed or received for commercial purposes by that person. The bill would require the department to specify the format and disposition of the~~

~~records by regulation. The bill would require vessel operators to cooperate with the department in monitoring or tracking vessels prohibit a person from operating a squid light boat unless the owner of the boat has been issued a commercial squid light boat owner's permit by the department, as specified.~~

The bill would require all funds collected pursuant to the bill to be used exclusively for the administration, enforcement, and research required pursuant to the bill.

The bill would require the department to undertake necessary research to evaluate the status of squid fishery and to make a report on or before June 1, 2000, to the Legislature, as specified. *The bill would create a Commercial Squid Advisory Committee that would be responsible for submitting legislative and regulatory recommendations to the department.*

The bill would provide that any statement relating to a commercial squid vessel owner's permit or to a commercial squid light boat owner's permit shall be made under penalty of perjury.

The bill would ~~prohibit the department from issuing new commercial squid vessel permits between April 30, 1998, and March 31, 2001, except renewal permits and transfers, as specified, or if specified conditions exist. The bill would also require the department, after public hearing, to establish annual quotas for commercial squid landings and to take specified actions based on that quota.~~

(3) Existing law makes a violation of the Fish and Game Code a ~~new~~ crime.

Because this bill would create new crimes, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) Existing law requires fees and landing taxes collected by the department to be deposited in the Fish and Game Preservation Fund and continuously appropriates the fund to

the department to carry out the Fish and Game Code and to the commission to pay the salaries and expenses of the members and employees of the commission.

Because this bill would add new fees to be deposited in the fund, would authorize new expenditures of money in the fund, and would impose new duties on the department, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8399 of the Fish and Game Code
2 is amended and renumbered to read:

3 8421. Except as otherwise provided in this article,
4 north of Point Conception, squid may be taken the year
5 around; however, the commission may adopt regulations
6 specifying the days of the week and the times of the day
7 when squid may be taken.

8 SEC. 2. Section 8399.1 of the Fish and Game Code is
9 amended and renumbered to read:

10 8422. (a) In District 10, it is unlawful to engage in the
11 following activities:

12 (1) Attract squid by a light displayed from any vessel,
13 except a vessel deploying nets for the take, possession,
14 and landing of squid or from the seine skiff of the vessel
15 deploying nets for the take, possession, and landing of
16 squid.

17 (2) Attract squid by a light displayed from any vessel
18 whose primary purpose is not the deployment, or
19 assisting in the deployment, of nets for the take,
20 possession, and landing of squid.

21 (3) To encircle any vessel, other than by the seine skiff
22 of a vessel deploying nets for the take, possession, and
23 landing of squid, while that vessel is engaged in the taking
24 of squid.

25 (b) For purposes of this section, “seine skiff” means a
26 vessel that is not licensed by the federal government or
27 registered by the Department of Motor Vehicles, that is
28 used to assist a larger federally-licensed or



1 state-registered fishing vessel by assisting in the
2 deployment and retrieval of nets and the landing of fish,
3 and that travels with that larger fishing vessel at all times,
4 that is used solely at the direction of the operator of the
5 larger fishing vessel, and that is owned by the owner of
6 the larger fishing vessel.

7 SEC. 3. Article 9.7 (commencing with Section 8420)
8 is added to Chapter 2 of Part 3 of Division 6 of the Fish and
9 Game Code, to read:

10
11 Article 9.7. Squid
12

13 8420. The following definitions govern the
14 construction of this article:

15 ~~(a) "Agent" means the person designated in writing~~
16 ~~by the owner as the owner's representative.~~

17 ~~(b)~~

18 (a) "Owner" means the person or persons designated
19 as the registered owner of a vessel on a certificate of
20 documentation issued by the United States Coast Guard.
21 An owner also includes ~~any person who has a~~
22 ~~lease-purchase agreement for the purchase of a vessel, or~~
23 any person who has made a significant financial
24 investment in a vessel for the purpose of fishing for squid.

25 ~~(c)~~

26 (b) "Squid" means the species *Loligo opalescence*
27 which may also be known as "market squid."

28 8423. (a) On a vessel it is unlawful for a person to take
29 or possess squid for commercial purposes unless the vessel
30 displays a valid commercial squid vessel owner's permit
31 issued by the department ~~for~~ *to the owner of* that vessel.

32 (b) A commercial squid vessel owner's permit shall be
33 issued to the owner of a vessel only if the owner or the
34 owner's agent has a valid commercial fishing license
35 issued pursuant to Section 7852 *and presents landing*
36 *receipts as evidence that he or she has landed squid in*
37 *California on a vessel owned by the applicant during the*
38 *12-month period ending April 15, 1997,* and the vessel is
39 registered with the department pursuant to Section 7881.

1 (c) *Notwithstanding subdivision (b), the department*
2 *shall adopt procedures by which a commercial squid*
3 *vessel owner's permit may be issued to an applicant who*
4 *qualifies as a hardship applicant. For purposes of this*
5 *article, a "hardship applicant" is a person who landed*
6 *squid in California on a vessel owned by the applicant*
7 *during the 12-month period ending April 15, 1996, but*
8 *who was prevented from landing squid during the*
9 *succeeding 12-month period either because of illness or*
10 *because the boat owned by the applicant was not*
11 *operational.*

12 (d) No commercial squid vessel owner's permit shall
13 be issued to a person who takes squid with other than
14 purse seine, lampara, or scoop nets.

15 ~~(d) The commercial squid vessel permit must be~~

16 (e) *The commercial squid vessel owner's shall be*
17 *affixed to the vessel adjacent to the department*
18 *registration number and must shall be visible at all times.*
19 *The department shall prescribe the size and design of the*
20 *commercial squid vessel owner's permit.*

21 8424. (a) A commercial squid vessel owner's permit
22 shall be issued ~~annually, commencing with the permit~~ for
23 the 1998-99 permit year; to a person who submits an
24 application, pays the permit fee, and meets the other
25 requirements of this article. *The deadline for submitting*
26 *permit applications is March 31, 1998. The initial permit*
27 *shall be valid for the permit year, consisting of the period*
28 *from April 1 of the year of issue to March 30, inclusive, of*
29 *the succeeding year, or if issued during that period, for*
30 *the balance thereof from April 1, 1998, to March 31, 1999,*
31 *inclusive, and is renewable upon application. The*
32 *department shall not deny an application for a permit or*
33 *permit renewal without good cause.*

34 (b) The department shall establish the fee for a
35 commercial squid vessel permit. ~~The amount of the fee~~
36 *owner's permit pursuant to Section 8431. shall not exceed*
37 ~~the lesser of:~~

38 ~~(1) The reasonable costs incurred by the department~~
39 ~~in administering this article including necessary research~~
40 ~~to assess the status of the squid resource.~~

1 ~~(2) Seven hundred fifty dollars (\$750).~~

2 (c) No person shall be issued more than one
3 commercial squid vessel owner's permit for each vessel
4 that the person owns. Not more than one commercial
5 squid vessel owner's permit shall be issued for any one
6 vessel.

7 (d) Upon the request of the owner of a commercial
8 squid vessel owner's permit, the department shall
9 *authorize the owner to* transfer the permit to a
10 replacement vessel *under the same ownership, if the*
11 *vessel to which the permit had been originally affixed is*
12 *retired from the squid fishery.*

13 ~~(e) If the owner of a commercial squid vessel permit~~
14 ~~sells the vessel, the department shall cancel the seller's~~
15 ~~commercial squid vessel permit and shall issue a new~~
16 ~~permit to the new owner of the vessel if the new owner~~
17 ~~otherwise satisfies all requirements for receipt of the~~
18 ~~permit and pays the fee determined pursuant to~~
19 ~~subdivision (b).~~

20 ~~(f) No owner of a commercial squid vessel permit shall~~
21 ~~profit from the sale, trade, or transference of the permit~~
22 ~~to another person and nothing in this section shall be~~
23 ~~interpreted to permit that profiting.~~

24 ~~8425. The department may, by regulation, control the~~
25 ~~use of squid light boats. The regulations may include the~~
26 ~~requirement for light boat permits, a permit fee not to~~
27 ~~exceed the amount of fee for a commercial squid vessel~~
28 ~~permit,~~

29 *(e) No person who is issued a commercial squid vessel*
30 *owner's permit shall sell, trade, or transfer the permit to*
31 *another person except that the permit may be conveyed*
32 *by inheritance upon the death of the person to whom the*
33 *permit had been issued.*

34 *8425. (a) No person shall operate a squid light boat*
35 *unless the owner of the boat has been issued a commercial*
36 *squid light boat owner's permit by the department and a*
37 *permit number is affixed to the boat in the manner*
38 *prescribed by the department.*

39 *(b) The department shall issue a commercial squid*
40 *light boat owner's permit to any person who shows*

1 evidence, to the satisfaction of the department, that he or
2 she had operated a squid light boat during the 12-month
3 period ending April 15, 1997. The deadline for submitting
4 permit applications is March 31, 1998. The initial
5 commercial squid light boat owner's permit shall be valid
6 from April 1, 1998, to March 31, 1999, inclusive, and is
7 renewable upon application. The department shall not
8 deny an application for a permit or permit renewal
9 without good cause. The amount of the permit fee shall
10 be determined pursuant to Section 8431.

11 (c) The department, by regulation, may control the
12 use of squid light boats. The regulations may specify the
13 forms for agreements between light boats and
14 commercial squid vessels, and other conditions consistent
15 with those established for commercial squid vessels.

16 ~~8426. (a) The department shall issue an annual~~
17 ~~commercial squid buyer's permit to a person who submits~~
18 ~~an application, pays the permit fee, and meets the other~~
19 ~~requirements of this section.~~

20 ~~(b) A person who purchases squid shall have a valid~~
21 ~~commercial squid buyer's permit issued by the~~
22 ~~department.~~

23 ~~(c)~~

24 8426. No person shall purchase squid from any vessel
25 that does not display a valid commercial squid vessel
26 owner's permit.

27 ~~(d) The department shall not issue a commercial squid~~
28 ~~buyer's permit unless the facility or facilities operated by~~
29 ~~the person are on land or attached to land, are not~~
30 ~~otherwise floating or operating at sea, and are subject to~~
31 ~~reasonable inspection by the department during normal~~
32 ~~business hours as may be required to verify that landings~~
33 ~~are by vessels displaying commercial squid vessel~~
34 ~~permits.~~

35 ~~(e) The fee for the commercial squid buyer's permit~~
36 ~~shall not exceed the department's reasonable costs for the~~
37 ~~administration of this article, including relevant research,~~
38 ~~or seven hundred fifty dollars (\$750), whichever is less.~~

39 ~~(f) The department shall not deny an application for~~
40 ~~a permit or permit renewal without good cause.~~

~~8427. (a) Every person holding a commercial squid vessel permit issued pursuant to Section 8424 or a commercial squid buyer's permit issued pursuant to Section 8426 shall make or have made a true and accurate record of all squid landed or received for commercial purposes by that person. The department shall, by regulation, specify the format and disposition of the records. Vessel operators shall reasonably accommodate requests from the department to have observers present when squid are being taken and shall reasonably cooperate with the department if the department adopts either a trial or a comprehensive plan to remotely monitor or track vessels.~~

~~(b)–~~

8427. (a) The department shall undertake necessary research including, if appropriate, biological assessments to accurately evaluate the status of the squid fishery *and make recommendations to the Legislature.*

~~(c)–~~

(b) Notwithstanding Section 7550.5 of the Government Code, on or before June 1, 2000, the department shall report to the Legislature on the status of the squid fishery and shall make recommendations for a squid conservation and management plan to protect the resource. ~~The plan may include, if appropriate, time and area closures, gear modification provisions, restrictions on the use of light boats, temporary adjustable annual quotas, provisions for determining whether or not the number of vessels or days permitted for the taking of squid should be further restricted, and other measures the department concludes would help to sustain the harvest of squid.~~

~~(d)–resource. The recommendations may include whether or not a limited access plan to manage the amount of fishing effort in the squid fishery is necessary and, if so, what criteria should be used to determine who may participate in the fishery and what the optimum number of vessels should be in the fishery.~~

(c) When developing the report required by subdivision ~~(c)–~~ (b), the department shall hold regular

1 public ~~hearings~~ *meetings* in order to do all of the
2 following:

3 (1) Consider proposals advanced by interested parties
4 *including any proposal or proposals submitted by the*
5 *Commercial Squid Advisory Committee.*

6 (2) Hear public testimony.

7 (3) Advise interested parties on the progress of the
8 plan's development.

9 ~~8428. Between April 30, 1998, and March 31, 2001, the~~
10 ~~department shall not issue any commercial squid vessel~~
11 ~~permits except for renewal permits and permit transfers~~
12 ~~issued pursuant to subsections (d) and (e) of Section 8424~~
13 ~~unless either of the following conditions exist:~~

14 ~~(a) The number of active valid permits is less than the~~
15 ~~number of permits in effect on April 30, 1998.~~

16 ~~(b) The department, after public hearing, adopts~~
17 ~~findings and conclusions that the issuance of a greater~~
18 ~~number of vessel permits will not adversely affect the~~
19 ~~squid fishery.~~

20 *8428. There is hereby created a Commercial Squid*
21 *Advisory Committee. The chair of the advisory*
22 *committee shall be the director, or his or her designee. In*
23 *addition to the chair, the committee shall include 10 other*
24 *members appointed by the director. The director shall*
25 *attempt to appoint a membership that balances*
26 *competing economic interests, is knowledgeable about*
27 *the resource, and that represents various affected*
28 *interests. The committee may conduct public hearings*
29 *and shall submit legislative and regulatory*
30 *recommendations to the department. Department*
31 *personnel shall be made available to assist the committee.*
32 *The members of the committee shall serve without*
33 *compensation.*

34 8429. (a) No permit authorized by this article, the
35 issuance of which is dependent on the permitholder's or
36 permit applicant's possession of an underlying permit or
37 license, shall be issued or remain valid once issued for as
38 long as the underlying permit or license is in a period of
39 suspension or revocation.

(b) Any person denied a permit authorized by this article may appeal the denial to the ~~department~~ *commission* in writing describing the basis for the appeal. The appeal shall be received by the ~~department~~ *commission* within 60 days after the department's denial.

(c) *Any statement relating to a commercial squid vessel owner's permit or to a commercial squid light boat owner's permit made to the department, orally or in writing, shall be made under penalty of perjury. The commission shall revoke the commercial fishing license, the commercial boat registration of any vessel, and, if applicable, any other licenses issued by the department that are held by any person submitting false statements for the purpose of obtaining either a commercial squid vessel owner's permit or a commercial squid light boat owner's permit.*

8430. (a) Prior to April 1, 1998, and annually thereafter, the department shall, after public hearing at which findings are adopted, do one of the following:

(1) Establish an annual quota for commercial squid landings. The quota shall not exceed, by more than 10 percent, the total tonnage of squid taken during one year, between 1987 and 1996, in which the take was the greatest.

(2) Determine if the hours or days of the week in which squid may be taken should be reduced by up to 30 percent.

(b) If a quota is adopted, the quota shall be apportioned among fisheries both north of and south of Point Conception. ~~After the quota is in effect, the department shall estimate, based on the records submitted pursuant to Section 8427, the date on which the total amount of squid taken during the permit year will equal the quota. When this estimate is calculated, the department~~ Further, the department may prorate the quota amongst periods of time such as weeks, months, or other measurable spans of days so that fishing may be authorized from time to time throughout the permit year. The department shall develop a means of estimating when the quota will be reached during the quota period

1 *or periods and* shall notify each permitholder that the
2 quota will be reached on that date *or those dates* and that
3 thereafter no squid may be taken until the following
4 permit year.

5 (c) If the department determines to prohibit the
6 taking of squid during certain hours or on certain days,
7 preference for closure shall be given to the period
8 between noon on Saturday and sunset on Sunday.
9 Closures may be ordered for just some areas or for all
10 areas depending on the findings of the department.

11 (d) Before taking action pursuant to paragraphs (1) or
12 (2) of subdivision (a), the director shall adopt findings
13 that the action to be taken is necessary to maintain the
14 squid resource.

15 8431. (a) All funds collected pursuant to this article
16 shall be used exclusively for the administration,
17 enforcement, and research required pursuant to this
18 article.

19 (b) *The fee for a commercial squid vessel owner's*
20 *permit and for a commercial squid light boat permit and*
21 *for a renewal of those permits shall be one thousand*
22 *dollars (\$1,000). On and after January 1, 1999, the*
23 *department may reduce the renewal permit fee if it*
24 *determines that sufficient revenues exist from both*
25 *private and public sources to conduct the research and*
26 *develop the recommendations required by this article.*
27 *Once the research is completed and recommendations*
28 *are submitted to the Legislature, the permit fees shall be*
29 *terminated and shall not be collected by the department.*

30 8432. Section 8420 and Sections 8423 to ~~8432~~ 8431,
31 inclusive, shall become inoperative on April 1, 2001, and,
32 as of January 1, 2002, are repealed, unless a later enacted
33 statute, that becomes operative on or before January 1,
34 2002, deletes or extends the dates on which they become
35 inoperative and are repealed.

36 SEC. 4. No reimbursement is required by this act
37 pursuant to Section 6 of Article XIII B of the California
38 Constitution because the only costs that may be incurred
39 by a local agency or school district will be incurred
40 because this act creates a new crime or infraction,

1 eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition
4 of a crime within the meaning of Section 6 of Article
5 XIII B of the California Constitution.

6 Notwithstanding Section 17580 of the Government
7 Code, unless otherwise specified, the provisions of this act
8 shall become operative on the same date that the act
9 takes effect pursuant to the California Constitution.

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